

DIRECTIVE

WORKFORCE INVESTMENT ACT

Number: WIAD05-2

Date: July 29, 2005
69/CWIB:141:jw:9239

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: LOCAL AREA MODIFICATION PROCESS

EXECUTIVE SUMMARY:

Purpose:

This directive publishes the State of California's Local Workforce Investment Areas (LWIA, local area) modification policy and application package adopted by the California Workforce Investment Board (State Board) on February 17, 2005. The local area modification process was developed to articulate and support policy that enables the State Board and the State administrative entity for the Workforce Investment Act (WIA), the Employment Development Department (EDD), to assist the Governor in responding to requests to modify the existing boundaries of designated local areas. The two principal considerations that were applied throughout the development of this process are:

1. To preserve local flexibility and control in optimizing services to all customers, including job seekers and businesses; and
2. To provide the elements necessary for the Governor to receive an objective assessment of any request for the modification of a local area(s) boundaries.

Scope:

This directive applies to all Local Workforce Investment Boards (LWIB, local board) and their designated local Chief Elected Officials (CEO).

Effective Date:

This directive is effective on the date of issuance.

REFERENCES:

- WIA Section 116
- Title 20 Code of Federal Regulations Part 652, et al. WIA; Final Rules

STATE-IMPOSED REQUIREMENTS:

This directive contains only State-imposed requirements.

FILING INSTRUCTIONS:

This directive finalizes WIA Draft Directive WIADD-96, issued for comment on May 18, 2005. Retain this directive until further notice.

BACKGROUND:

The WIA provides the Governor with the authority and the responsibility to designate cities, counties, or consortia of cities and/or counties as local areas for delivering WIA services. These areas are known as LWIAs and the original LWIA designations were based on three categories, along with the process and considerations, as provided for in the WIA. The three categories as stated in Section 116 of the WIA were:

- *Automatic:* The Governor shall approve any request for designation from any unit of general local government with a population of 500,000 or more.
- *Temporary:* The Governor shall approve any request for designation, made prior to the submission of the initial State Plan, from any unit of general local government, including a combination of such units, with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act (JTPA) prior to the enactment of the WIA and that:
 1. Performed successfully under JTPA in each of the preceding two years, and
 2. Sustained the fiscal integrity of the JTPA funds allocated to the area.

These designations shall be for a period of not more than two years, after which the designation shall be extended until the end of the period covered by the State Plan.

- *State Board Recommended:* The Governor may approve a request from any unit of general local government, including a combination of such units, for designation (including temporary designation) if the State Board determines, taking into account the factors described in clauses (i) through (v) of paragraph (1)(B) of Section 116, and recommends to the Governor, that such area should be so designated.

The WIA required the Governor to determine these designations, as a part of developing California's Strategic 5-Year WIA Plan (Strategic Plan), prior to the July 2000 implementation of the WIA. *Temporary* and *State Board Recommended* local areas received two-year designations that were reviewed in 2002–03 and, based on performance, were extended for the life of the Strategic Plan. Therefore, until a new program period is implemented with the approval of a new Strategic Plan, only a local board and its designated local CEO can initiate the modification of an existing local area.

POLICY AND PROCEDURES:

Modification of Existing Local Area Boundaries:

The WIA does not provide any direct guidance on how governors should process and approve or disapprove requests from existing local areas to modify their designated boundaries after designations were made. Modification requests can range from a single city moving from one local area into another, to two or more local areas merging into a larger one. Any designated local area boundary change will result in a change to at least one other designated local area's boundaries. Any modification, therefore, no matter how minor, will alter at least two local areas' boundaries.

The Governor has the authority to make or change local area designations, so the Governor must approve or disapprove all requests for local area modifications. The Governor must also consult with the designated local CEOs for the local areas involved and with the State Board before approving or disapproving such requests. In order for the EDD and the State Board to assist the Governor in making these important decisions, it is necessary for the State to have a policy and process in place that will provide the Governor with objective assessments upon which he can base his decisions.

Since local area modification requests will alter at least two local areas' boundaries, two local boards and two designated local CEOs, at a minimum, should be involved in any modification application. Ideally, all local boards and designated local CEOs in local areas affected by the boundary changes will support the modification application. When this occurs, the application process should be easier and more expedient, although objective information supporting the request must still be developed and provided.

In the instance where one or more of the parties to the application are not in agreement about the boundary change, however, each step and consideration in the application process will require a higher threshold of information and public scrutiny. For instance, in performing its objective assessment of the application, the EDD must consider dissenting opinions and opposing information, whether the applicant is able to provide them or not. The State Board must also have the most comprehensive and objective information available in order to make a recommendation to the Governor regarding a contested modification request.

Opposition to a Modification Request:

The intent of the modification process is to provide the State Board, and ultimately the Governor, every consideration necessary in order to make a sound judgment about the request – to ensure that the modification will not adversely affect services to job seekers and businesses in those communities. The applicant must therefore make a good faith effort to at least report dissenting views through the application itself. The process provides several opportunities for an opposing or dissenting entity to provide specific information supporting its opposition to the request.

Those opportunities include:

- The local board(s) public process in consideration of the application;
- Notification by the EDD to affected LWIB/CEO that an application has been received. A LWIB/CEO will have 30 days to provide written concerns and supporting information to EDD for consideration in the assessment of the application;
- Consideration of the application by a State Board standing committee at a public meeting, during which the opposing entities will have an opportunity to provide comments;
- Consideration of the recommendation from the standing committee to the full State Board at a public meeting. The opposing entities will, again, have an opportunity to comment and/or provide written information.

Once more, this process is intended to ensure that the Governor's decision to modify the designation of existing local areas is based upon a comprehensive understanding of the impact on services to California's communities and businesses.

Local Area Modification Request Process:

A local board, and its designated local CEO, of a local area involved in the boundary change always initiates the process. Ideally, all LWIB and CEOs of the local areas affected by the boundary change will reach agreement on the proposed change. Applications will be accepted only from local boards and their designated local CEOs. There are four steps to the process:

1. Development of the Request for Modification

A participating local board and its designated local CEO must initiate the modification request and must:

- Provide signed support for the request from the initiating local board and designated local CEO and, if available, signed support from the local board(s) and their designated local CEO(s) from the other local area(s) whose boundaries will change; and
- Notify the public of the request and allow sufficient time for public comment.

The modification of local area boundaries will affect operations in those local areas in important ways, including but not limited to the revision of WIA allocations and performance goals, possible changes to the One-Stop infrastructures, and changes to the composition of the local boards. The EDD staff is available to the initiating LWIB/CEOs for technical assistance in developing the request and in completing the application to the Governor. The EDD staff can also assist the local areas in identifying what those changes may be and how modification will affect each of the involved local areas.

2. Submission of the Application to the State Board

When the local process of developing the request for modification is completed, the LWIB/CEO will complete the *Local Area Modification Application* package. Again, designated EDD staff can be of assistance in completing the application itself and in securing the required documentation. The parties to the area modification request must submit the completed application to the State Board, which will refer it to the EDD for assessment. Overall, the considerations that an application must address are how the proposed change will affect the customers – both job seekers and businesses. The considerations may include, but are not limited to, how the proposed change will:

- a. Improve the operations and the services in the participating local areas;
- b. Provide greater accessibility to services for customers in the service area(s) affected by the change; and
- c. Better align workforce resources.

3. Assessment of the Application by the EDD

The State Board will refer applications for local area modification to the Workforce Investment Division in the EDD, which will work with the local areas to obtain any missing or incomplete documentation. Fiscal, administrative, and program experts in the EDD will be engaged in the assessment to assist in identifying the effects that the proposed change may have on operations, budget, and services in the local areas involved.

Once a completed application is received, the EDD will have 60 days in which to assess the application and forward a recommendation for approval or disapproval to an assigned standing committee of the State Board. During the commencement of the 60-day period, EDD will notify affected LWIBs/CEOs that the application has been received. This is to provide LWIBs/CEOs a 30-day period to provide written concerns and supporting information for consideration in the assessment of the application.

The State Board standing committee will consider all information provided and present its recommendation to the full State Board at its next regularly scheduled meeting.

4. Recommendation from the State Board to the Governor

The State Board will, in public session, review and discuss the application and the assessment and recommendation submitted by the standing committee. The public, as well as all interested local parties, will have the opportunity to speak in support of, or opposition to, the proposed change. The State Board may re-refer the application to the standing committee and EDD, if necessary, for further information or assessment. Once the necessary documentation and public comment is complete, the State Board will take action to recommend approval or disapproval of the application to the Governor.

ACTION:

Please bring this directive to the attention of the LWIBs and Local CEOs.

INQUIRIES:

If you have any questions, please contact Javier Romero at JRomero@CWIB.ca.gov or (916) 324-3277.

/S/ BOB HERMSMEIER
Chief
Workforce Investment Division

Attachment is available on the Internet:

[Local Area Modification Application Information and Forms Package](#) (DOC) (420k)